

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

MIGUEL VAZQUEZ,) CASE NO. CV 12-9923 PJW
Plaintiff,)
v.) ORDER RE: DEFENDANTS' MOTIONS IN
CITY OF LONG BEACH, ET AL.,) LIMINE
Defendants.)

MIGUEL CONTRERAS,) CASE NO. CV 13-3227 PJW
Plaintiff,)
v.) ORDER RE: DEFENDANTS' MOTIONS IN
CITY OF LONG BEACH, ET AL.,) LIMINE
Defendants.)

A. Defendants' Motion to Bifurcate the Trial

Defendants move to bifurcate the trial, trying the issue of liability on the part of the officers first and the *Monell* and punitive damages claims second. They contend that the evidence relating to the *Monell* claims will be time consuming and unfairly prejudicial and will not be necessary if the jury renders a verdict in Defendants' favor.

1 Plaintiffs oppose the motion. They do not believe that it would
2 require a lot of time to introduce the evidence relating to the *Monell*
3 claims and argue that much of the evidence would be relevant to
4 Plaintiffs' other claims against the City.

5 The Court recognizes that it has the discretion to bifurcate the
6 trial and has routinely done so in civil rights cases like the one at
7 bar. The Court has found that, generally speaking, this practice
8 promotes the just, speedy, and inexpensive resolution of the case by
9 allowing the parties to efficiently present the evidence about the
10 incident and allowing the jury to weigh that evidence without the
11 taint of the *Monell* evidence, which is not admissible on the issue of
12 liability against the officers.

13 The Court sees no reason to depart from that practice here. If
14 the jury returns a verdict in Defendants' favor, obviously, there will
15 be no need for a second phase on the *Monell* claims. See *City of Los*
16 *Angeles v. Heller*, 475 U.S. 796 (1986) (explaining there can be no
17 *Monell* liability unless the individual officer is liable). If the
18 jury returns verdicts in Plaintiffs' favor, it is still possible that
19 there would be no need to have a second phase of trial because the
20 City may elect at that time to resolve the *Monell* claims.

21 The Court is not alone in this practice, see, e.g., *Green v. Cty.*
22 *of Los Angeles*, 2014 WL 174988, at *1-2 (C.D. Cal. Jan. 16, 2014), and
23
24
25
26
27
28

1 it has been approved by the Ninth Circuit. See *Quintanilla v. City of*
2 *Downey*, 84 F.3d 353, 356 (9th Cir. 1996). For these reasons,
3 Defendants' motion to bifurcate the *Monell* issues is granted.¹

4 Defendants also seek to bifurcate the issue of punitive damages
5 from the liability phase of the trial. They argue that evidence
6 relating to punitive damages is not relevant to liability and would be
7 prejudicial. Plaintiffs disagree as to both arguments. Here again,
8 the Court sides with Defendants. Punitive damages are based on a
9 defendant's ability to pay. Such evidence is not desirable during the
10 liability phase of the trial. See *Vasbinder v. Ambach*, 926 F.2d 1333,
11 1344 (2d Cir. 1991). The Court will, however, include an interroga-
12 tory on the verdict form, asking jurors whether, assuming Defendant(s)
13 violated Plaintiffs' constitutional rights, they acted maliciously,
14 oppressively, or in reckless disregard. If the jury concludes that a
15 Defendant acted in such a manner, then Plaintiffs will be able to
16 introduce evidence in the second phase of the trial relating to
17 punitive damages.

18 B. Defendants' Motion to Exclude Results of Administrative
19 Investigations

20 Defendants request that the Court preclude Plaintiffs from
21 introducing the findings of any administrative review, including the
22 Internal Affairs investigation that was conducted regarding the
23 allegations in this case. They argue that the reports are hearsay and
24
25

26 ¹ At the hearing on the motion, it became clear that
27 Plaintiffs' supervisory claims against Defendant Sergeant Knight--
28 who supervised Defendant officers--should also be presented in the
second phase of the trial.

1 irrelevant. Plaintiffs contend that the reports falls within an
2 exception to the hearsay rule and that they are highly relevant.

3 The Court finds that Internal Affairs reports in general and the
4 one involving the incident in this case in particular are not relevant
5 or admissible. Much if not all of the report is hearsay. Further,
6 the conclusions in the report in this case is based on evidence
7 collected during the investigation and contained in the report, which
8 may or may not be the same evidence the jury will be exposed to at
9 trial. The jury will be charged with determining whether Defendants'
10 conduct was unconstitutional based on evidence that is presented
11 during trial. That process will not be enhanced by informing jurors
12 the outcome of the internal affairs investigation and may in fact be
13 harmed. *Maddox v. City of Los Angeles*, 792 F.2d 1408, 1417 (9th Cir.
14 1989); *Allen v. City of Los Angeles*, 2012 WL 1641712, at *3 (C.D. Cal.
15 May 7, 2012). For that reason, the Internal Affairs report(s) will
16 not be admitted.

17 C. Defendants' Motion to Exclude "Other Acts" Evidence

18 Finally, Defendants move to exclude evidence of "other acts,"
19 involving Officer Hynes and Sergeant Faris. Plaintiffs seek to
20 introduce them to show a pattern of excessive force against unarmed
21 subjects, similar to the case at bar, and to undermine Defendants'
22 credibility. For the reasons set forth below, the Court grants
23 Defendants' motion in limine.

24 1. Officer Hynes

25 The incidents regarding Officer Hynes fall into three categories:
26 prior convictions (a misdemeanor conviction for battery and two DUI
27 convictions), 48 excessive force complaints (including the one giving
28 rise to this suit), three of which resulted in discipline, and

1 lawsuits alleging excessive force. Defendants argue that this
2 evidence is not admissible during the first phase of trial in which
3 the jury will be called upon to decide whether Defendant officers
4 violated Plaintiffs' civil rights. For the following reasons, the
5 Court agrees.

6 Federal Rule of Evidence 609 controls the admission of prior
7 convictions to impeach a witness. Under Rule 609, only misdemeanors
8 involving dishonesty or false statements and felonies can be used to
9 impeach. Because Defendant Hynes' misdemeanor and DUI convictions are
10 not felonies and do not involve dishonesty, they are not admissible to
11 impeach him under Rule 609. They likely will be admissible in the
12 second phase, however. If the trial does proceed to a second phase,
13 the Court will set out at that time what may and may not be introduced
14 and for what purpose.

15 As to the remaining incidents involving complaints about
16 excessive force and lawsuits arising from such claims, the Court finds
17 that they, too, are inadmissible during the first phase of trial. To
18 the extent that Plaintiffs seek to use these other alleged acts to
19 establish that Defendant Hynes had a propensity to use excessive force
20 and that he acted in conformance with that trait when he beat
21 Plaintiffs, Federal Rule of Evidence 404 specifically precludes such
22 use. To the extent that Plaintiffs seek to use this evidence to show
23 that Defendant Hynes is lying when he testifies that he did not use
24 excessive force against Plaintiffs, that request is also denied. In
25 45 of the 48 incidents identified, there was never any finding that
26 the allegations were true. As to the other three, one was from the
27 incident at bar. Obviously, Plaintiffs' counsel will have free rein
28 to explore this incident but may not rely on the police department's

1 administrative findings to do so. The other two incidents are not
2 particularly probative on the issue of truthfulness. Even assuming
3 that police department officials determined that Hynes' use of force
4 in those other incidents was questionable, and, assuming further that
5 the department based that determination on a finding that Hynes'
6 version of events was not accurate, that does not prove that Hynes was
7 lying. It simply establishes that, after considering two versions of
8 the story, the department sided with the victim/complainant and not
9 Hynes.

10 Finally, even assuming that the "other acts" evidence was
11 marginally relevant to the substantive issues in this trial and/or to
12 impeach Hynes, the Court would be reluctant to allow it in. To begin
13 with, any probative value of the evidence would be highly outweighed
14 by the unfair prejudice. There is no doubt that exposing the jurors
15 to 47 other instances of alleged excessive force would cloud their
16 perception of the remaining evidence and make it very difficult for
17 them to fairly decide whether Hynes' use of force in this case was
18 unconstitutional. In addition, allowing Plaintiffs to introduce this
19 evidence would take a fair amount of time and would require the Court
20 to provide Defendants with an equal opportunity to challenge it and to
21 counter it. This would cause the trial to turn into 47 mini-trials
22 about what happened in those other incidents. Such a process would
23 unnecessarily consume the jury's time and would distort the fact-
24 finding process. For these reasons, Defendant Hynes' motion to
25 exclude this evidence in the first phase of trial is granted.²

26
27 ² The Court is inclined to allow this evidence in the second
28 phase of trial as it appears that, at the very least, it is relevant
to the *Monell* claims.

1 2. Sergeant Faris

2 Plaintiffs identify four incidents involving Defendant Faris, two
3 internal affairs complaints and two use of force reports. For the
4 same reasons set forth above, they, too, are not admissible in the
5 first phase of this trial.

6 IT IS SO ORDERED.

7 DATED: April 19, 2016

8 

9
10 _____
PATRICK J. WALSH
UNITED STATES DISTRICT JUDGE